



**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R05-OAR-2012-0884; EPA-R05-OAR-2012-0970; FRL-9790-2]**

**Approval and Promulgation of Air Quality Implementation Plans;  
Ohio; Cleveland-Akron-Lorain and Columbus 1997 8-Hour Ozone  
Maintenance Plan Revisions to Approved Motor Vehicle Emissions  
Budgets**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving the request by Ohio to revise the Cleveland-Akron-Lorain and the Columbus, Ohio 1997 8-hour ozone maintenance air quality State Implementation Plans (SIPs) under the Clean Air Act (CAA) to replace the previously approved motor vehicle emissions budgets (budgets) with budgets developed using EPA's Motor Vehicle Emissions Simulator (MOVES) emissions model. Ohio submitted the SIP revision requests to EPA on October 30, 2012, and December 12, 2012, respectively.

**DATES:** This direct final rule will be effective [INSERT DATE 60 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER], unless EPA receives adverse comments by [INSERT DATE 30 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER]. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the Federal Register informing the public that the

rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R05-OAR-2012-0884 and EPA-R05-OAR-2012-0970, by one of the following methods:

1. [www.regulations.gov](http://www.regulations.gov): Follow the on-line instructions for submitting comments.
2. E-mail: [blakley.pamela@epa.gov](mailto:blakley.pamela@epa.gov)
3. Fax: (312)692-2450.
4. Mail: Pamela Blakley, Chief, Control Strategies Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
5. Hand Delivery: Pamela Blakley, Chief, Control Strategies Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 AM to 4:30 PM, excluding Federal holidays.

*Instructions:* Direct your comments to Docket ID No.

EPA-R05-OAR-2012-0884 and EPA-R05-OAR-2012-0970. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at

www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through www.regulations.gov or e-mail. The www.regulations.gov website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

*Docket:* All documents in the docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain

other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 AM to 4:30 PM, Monday through Friday, excluding Federal holidays. We recommend that you telephone Anthony Maietta, Environmental Scientist, at (312) 353-8777 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:** Anthony Maietta, Environmental Scientist, Control Strategies Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312)353-8777, [maietta.anthony@epa.gov](mailto:maietta.anthony@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

I. What Is EPA Approving?

II. What Is the Background for This Action?

- a. SIP Budgets and Transportation Conformity
- b. Prior Approval of Budgets
- c. The MOVES Emissions Model and Regional Transportation Conformity Grace Period
- d. Submission of New Budgets Based on MOVES2010a

III. What Are the Criteria for Approval?

IV. What Is EPA's Analysis of the State's Submittal?

a. The Revised Inventories

b. Approvability of the MOVES2010a-based Budgets

c. Applicability of MOBILE6.2-based Budgets

V. What Action is EPA Taking?

VI. Statutory and Executive Order Reviews.

**I. What Is EPA Approving?**

EPA is approving new MOVES2010a-based budgets for the Cleveland-Akron-Lorain and the Columbus, Ohio, 1997 8-hour ozone maintenance areas. The Cleveland-Akron-Lorain and the Columbus, Ohio areas were redesignated to attainment of the 1997 8-hour ozone standard effective September 15, 2009, (74 FR 47414 and 74 FR 47404), and MOBILE6.2-based budgets were approved in those actions. The newly submitted MOVES2010a-based budgets will replace the existing MOBILE6.2-based budgets in the Ohio 1997 8-hour ozone maintenance plans and must then be used in future transportation conformity analyses for the area. At that time, the previously approved MOBILE6.2 based budgets would no longer be applicable for transportation conformity purposes.

The Cleveland-Akron-Lorain and the Columbus, Ohio 1997 8-hour ozone maintenance areas must use the MOVES2010a-based budgets starting on the effective date of this action. See the official release of the MOVES2010 emissions model (75 FR 9411-

9414) for background, and section II.(c) below for details.

## **II. What Is the Background for This Action?**

### **a. SIP Budgets and Transportation Conformity**

Under the CAA, states are required to submit, at various times, control strategy SIP revisions and maintenance plans for nonattainment and maintenance areas for a given National Ambient Air Quality Standard (NAAQS). These emission control strategy SIP revisions (e.g., reasonable further progress (RFP) and attainment demonstration SIP revisions) and maintenance plans include budgets of on-road mobile source emissions for criteria pollutants and/or their precursors to address pollution from cars, trucks and other on-road vehicles. These mobile source SIP budgets are the portions of the total emissions that are allocated to on-road vehicle use that, together with emissions from other sources in the area, will provide for attainment or maintenance if they are not exceeded. The budget serves as a ceiling on emissions from an area's planned transportation system. For more information about budgets, see the preamble to the November 24, 1993, transportation conformity rule (58 FR 62188).

Under section 176(c) of the CAA, transportation plans, Transportation Improvement Programs (TIPs), and transportation projects must "conform" to (i.e., be consistent with) the SIP before they can be adopted or approved. Conformity to the SIP

means that transportation activities will not cause new air quality violations, worsen existing air quality violations, or delay timely attainment of the NAAQS or delay an interim milestone. The transportation conformity regulations can be found at 40 CFR part 51, subpart T, and part 93.

In general, before budgets can be used in conformity determinations, EPA must affirmatively find the budgets adequate. However, budgets that are replacing approved budgets must be found adequate and approved before budgets can replace older budgets. If the submitted SIP budgets are meant to replace budgets for the same purpose, as is the case with Ohio's MOVES2010a 1997 8-hour ozone maintenance plan budgets, EPA must approve the revised SIP and budgets, and must affirm that they are adequate at the same time. Once EPA approves revised budgets into the SIP, they must be used by state and Federal agencies in determining whether transportation activities conform to the SIP as required by section 176(c) of the CAA. EPA's substantive criteria for determining the adequacy of budgets are set out in 40 CFR 93.118(e)(4).

#### **b. Prior Approval of Budgets**

EPA had previously approved budgets for the Cleveland-Akron-Lorain and the Columbus, Ohio, 8-hour ozone maintenance areas for volatile organic compounds (VOCs) and nitrogen oxides (NO<sub>x</sub>) for the year 2012 and 2020 on September 15, 2009, (74 FR

47414 and 74 FR 47404). These budgets were based on EPA's MOBILE6.2 emissions model. The ozone maintenance plans established 2012 and 2020 budgets for the Cleveland-Akron-Lorain and the Columbus, Ohio areas. The 2012 approved budgets for VOCs and NO<sub>x</sub> and the 2020 budgets for VOCs and NO<sub>x</sub> were approved in the September 15, 2009, rulemakings. These budgets demonstrated a reduction in emissions from the monitored attainment year and included a margin of safety.

**c. The MOVES Emissions Model and Regional Transportation  
Conformity Grace Period**

The MOVES model is EPA's state of the art tool for estimating highway emissions. The model is based on analyses of millions of emission test results and considerable advances in the agency's understanding of vehicle emissions. MOVES incorporates the latest emissions data, more sophisticated calculation algorithms, increased user flexibility, new software design, and significant new capabilities relative to those reflected in MOBILE6.2.

EPA announced the release of MOVES2010 in March 2010 (75 FR 9411). EPA subsequently released two minor model revisions: MOVES2010a in September 2010 and MOVES2010b in April 2012. Both of these minor revisions enhance model performance and do not significantly affect the criteria pollutant emissions results from MOVES2010. MOVES will be required for new regional



emissions analyses for transportation conformity determinations ("regional conformity analyses") outside of California that begin after March 2, 2013, or when EPA approves MOVES-based budgets, whichever comes first.<sup>1</sup> The MOVES grace period for regional conformity analyses applies to both the use of MOVES2010 and approved minor revisions (e.g., MOVES2010a and MOVES2010b). For more information, see EPA's "Policy Guidance on the Use of MOVES2010 and Subsequent Minor Model Revisions for State Implementation Plan Development, Transportation Conformity, and Other Purposes" (April 2012), available online at: [www.epa.gov/otaq/stateresources/transconf/policy.htm#models](http://www.epa.gov/otaq/stateresources/transconf/policy.htm#models).

EPA has encouraged areas to examine how MOVES would affect future transportation plan and TIP conformity determinations so, if necessary, SIPs and budgets could be revised with MOVES or transportation plans and TIPs could be revised (as appropriate) prior to the end of the regional transportation conformity grace period. EPA has also encouraged state and local air agencies to consider how the release of MOVES would affect analyses supporting SIP submissions under development (77 FR 9411, March 2, 2010, and 77 FR 11394, February 27, 2012).

The Metropolitan Planning Organizations (MPOs) for the

---

<sup>1</sup> Upon the release of MOVES2010, EPA established a two-year grace period before MOVES is required to be used for regional conformity analyses (75 FR 9411, March 2, 2010). EPA subsequently promulgated a final rule on February 27, 2012 to provide an additional year before MOVES is required for these analyses (77 FR 11394). In this case the grace period ends on March 2, 2013.

Cleveland-Akron-Lorain and the Columbus, Ohio areas have used MOVES2010a emission rates with the transportation network information to estimate emissions in the years of the transportation plan and also for the SIP. The budgets have been revised using the latest planning assumptions including population and employment updates. In addition, newer vehicle registration data has been used to update the age distribution of the vehicle fleet. Since MOVES2010 (or a minor model revision) will be required for conformity analyses after the grace period ends, the MPOs have concluded that updating the budgets with MOVES2010a will prepare the areas for the transition to using MOVES for conformity analyses and determinations. The interagency consultation group has had extensive consultation on the requirements and need for new budgets.

**d. Submission of New Budgets Based on MOVES2010a**

On October 30, 2012, and December 12, 2012, Ohio submitted final budgets based on MOVES2010a that cover the Ohio areas of Cleveland-Akron-Lorain and Columbus, Ohio. Ohio received no comments during the public review and comment period.

The MOVES2010a based budgets will replace the prior approved MOBILE6.2 based budgets and are for the same years and pollutants/precursors. The new MOVES2010a based budgets are for the years 2012 and 2020 for both VOCs and NO<sub>x</sub> and are detailed in Tables 5 and 6 of this notice. Ohio has also provided total

emissions including mobile emissions based on MOVES2010a, for the attainment year of 2006, and the 2020 maintenance year. The safety margin is defined as the reduction in emissions from the base year (in this case the 2006 attainment year) to the final year of the maintenance plan (in this case the 2020 year). The total emissions include point, area, non-road mobile and on-road mobile sources. The available safety margin for each area is shown in Tables 1 and 2.

Table 1-Table of Total Emissions with MOVES2010a Mobile Emissions  
Cleveland-Akron-Lorain  
[Tons per summer day]

Year	2006	2020	Safety Margin
VOC	121.59	37.54	84.05
NO <sub>x</sub>	274.22	94.23	179.99

Table 2-Table of Total Emissions with MOVES2010a Mobile Emissions  
Columbus  
[Tons per summer day]

Year	2006	2020	Safety Margin
VOC	260.58	128.59	131.99
NO <sub>x</sub>	330.99	127.29	203.70

The MPOs have added only a small portion of the overall safety margin available for NO<sub>x</sub> and VOCs to the budgets for 2012 and 2020. The submittal demonstrates how all emissions decline from the attainment year of 2006. In 2006, the total estimated NO<sub>x</sub> emissions from all sources in the Cleveland-Akron-Lorain area (including mobile, point, area and non-road sources) is 274.22 tons per day (tpd) and the total VOC emissions, for the 2006

attainment year, from all sources is 121.59 tpd. The 2020 estimated emissions for total NO<sub>x</sub> from all sources is 94.23 tpd and the total VOC emissions from all sources is 37.54 tpd. This reduction in emissions demonstrates that the area will continue below the attainment level of emissions and maintain the 1997 8-hour ozone standard. The mobile source emissions, when included with point, area and non-road sources continue to demonstrate maintenance of the attainment level of emissions in the Ohio areas of Cleveland-Akron-Lorain and Columbus, Ohio.

No additional control measures were needed to maintain the 1997 ozone standard in the Cleveland-Akron-Lorain and the Columbus, Ohio areas. An appropriate safety margin for NO<sub>x</sub> and VOCs was decided by the interagency consultation group (the interagency consultation group as required by the state conformity agreement consists of representatives from the Federal Highway Administration, the Ohio Environmental Protection Agency (OEPA), Ohio Department of Transportation, and EPA). The submitted budgets for the Cleveland-Akron-Lorain and the Columbus, Ohio areas are shown in Tables 5 and 6. These budgets will continue to keep emissions in the Cleveland-Akron-Lorain and the Columbus, Ohio areas below the calculated attainment year of emissions.

### **III. What Are the Criteria for Approval?**

EPA requires that revisions to existing SIPs and budgets

continue to meet applicable requirements (e.g., RFP, attainment, or maintenance). States that revise their existing SIPs to include MOVES budgets must therefore show that the SIP continues to meet applicable requirements with the new level of motor vehicle emissions contained in the budgets. The SIP must also meet any applicable SIP requirements under CAA section 110.

In addition, the transportation conformity rule (at 40 CFR 93.118(e)(4)(iv)) requires that "the budgets, when considered together with all other emissions sources, is consistent with applicable requirements for RFP, attainment, or maintenance (whichever is relevant to the given implementation plan submission)." This and the other adequacy criteria found at 40 CFR 93.118(e)(4) must be satisfied before EPA can find submitted budgets adequate and approve them for conformity purposes.

In addition, areas can revise their budgets and inventories using MOVES without revising their entire SIP if (1) the SIP continues to meet applicable requirements when the previous motor vehicle emissions inventories are replaced with MOVES base year and milestone, attainment, or maintenance year inventories, and (2) the state can document that growth and control strategy assumptions for non-motor vehicle sources continue to be valid and any minor updates do not change the overall conclusions of the SIP. For example, the first criterion could be satisfied by demonstrating that the emissions reductions between the

baseline/attainment year and maintenance year are the same or greater using MOVES than they were previously. The submittal meets this requirement as described below in section V.

For more information, see EPA's latest "Policy Guidance on the Use of MOVES2010 for SIP Development, Transportation Conformity, and Other Purposes" (April 2012), available online at: [www.epa.gov/otaq/stateresources/transconf/policy.htm#models](http://www.epa.gov/otaq/stateresources/transconf/policy.htm#models).

#### **IV. What Is EPA's Analysis of the State's Submittal?**

##### **a. The Revised Inventories**

The Ohio SIP revision requests for the Cleveland-Akron-Lorain and the Columbus, Ohio 1997 ozone maintenance plans seek to revise only the on-road mobile source inventories and not the non-road inventories, area source inventories or point source inventories for the 2012 and 2020 years for which the SIP revises the budgets. OEPA has certified that the control strategies remain the same as in the original SIP, and that no other control strategies are necessary. This is confirmed by the monitoring data for the Cleveland-Akron-Lorain and the Columbus, Ohio areas, which continue to monitor attainment for the 1997 8-hour ozone standard. Thus, the current control strategies are continuing to keep the area in attainment of the NAAQS.

EPA has reviewed the emission estimates for point, area and non-road sources and concluded that no major changes to the projections need to be made. Ohio finds that growth and control

strategy assumptions for non-mobile sources (i.e., area, non-road, and point) have not changed significantly from the original submittal for the years 2006, 2012, and 2020. As a result, the growth and control strategy assumptions for the non-mobile sources for the years 2006, 2012, and 2020 continue to be valid and do not affect the overall conclusions of the plan.

Ohio's submissions confirm that the SIP continues to demonstrate its purpose of maintaining the 1997 ozone standard because the emissions are continuing to decrease from the attainment year to the final year of the maintenance plan. The total emissions in the revised SIP (which includes MOVES2010a emissions from mobile sources) as shown in Tables 1 and 2 demonstrate that emissions in the Cleveland-Akron-Lorain and the Columbus, Ohio areas are continuing to decline and remain below the attainment levels.

Ohio has submitted MOVES2010a-based budgets for the Cleveland-Akron-Lorain and the Columbus, Ohio areas that are clearly identified in the submittals. The budgets are displayed in Tables 5 and 6.

#### **b. Approvability of the MOVES2010a-based Budgets**

EPA is approving the MOVES2010a-based budgets submitted by Ohio for use in determining transportation conformity in the Cleveland-Akron-Lorain and the Columbus, Ohio 1997 ozone maintenance areas. EPA is making this approval based on our

evaluation of these budgets using the adequacy criteria found in 40 CFR 93.118(e)(4) and our in-depth evaluation of the State's submittals and SIP requirements. EPA has determined, based on its evaluation, that the area's maintenance plans would continue to serve its intended purpose with the submitted MOVES2010a-based budgets and that the budgets themselves meet the adequacy criteria in the conformity rule at 40 CFR 93.118(e)(4).

The adequacy criteria found in 40 CFR 93.118(e)(4) are as follows:

- The submitted SIP was endorsed by [the Governor/Governor's designee] and was subject to a state public hearing (§93.118(e)(4)(i));
- Before the control strategy implementation plan was submitted to EPA, consultation among Federal, state, and local agencies occurred, and the state fully documented the submittal (§93.118(e)(4)(ii));
- The budgets are clearly identified and precisely quantified (§93.118(e)(4)(iii));
- The budgets, when considered together with all other emissions sources, are consistent with applicable requirements for RFP, attainment, or maintenance (§93.118(e)(4)(iv));



- The budgets are consistent with and clearly related to the emissions inventory and control measures in the control strategy implementation plan (§93.118(e)(4)(v); and
- The revisions explain and document changes to the previous budgets, impacts on point and area source emissions and changes to established safety margins and reasons for the changes (including the basis for any changes related to emission factors or vehicle miles traveled) (§93.118(e)(4)(vi).

We find that Ohio has met all of the adequacy criteria. Public hearing materials were submitted with the formal SIP revision request. The interagency consultation group, which is composed of the state air agencies, state departments of transportation, Federal Highway Administration, EPA and the MPO for the area, has discussed and reviewed the budgets developed with MOVES2010a and the safety margin allocation. The budgets are clearly identified and precisely quantified in the submittals. The budgets when considered with other emissions sources (point, area, non-road) are consistent with continued maintenance of the 1997 ozone standard. The budgets are clearly related to the emissions inventory and control measures in the SIP. The changes from the previous budgets are clearly explained with the change in the model from MOBILE6.2 to MOVES2010a and the revised and updated planning assumptions. The inputs to the

model are detailed in the submittal. EPA has reviewed the inputs to the MOVES2010a modeling and participated in the consultation process. The Federal Highway Administration and the Ohio Department of Transportation have taken a lead role in working with the MPO to provide accurate, timely information and inputs to the MOVES2010a model runs. The MPO network models provided the vehicle miles of travel and other necessary data from the travel demand network models.

The CAA requires that revisions to existing SIPs and budgets continue to meet applicable requirements (in this case, maintenance). Therefore, states that revise existing SIPs with MOVES must show that the SIP continues to meet applicable requirements with the new level of motor vehicle emissions calculated by the new model.

To that end, Ohio's submitted MOVES2010a based budgets meet EPA's two criteria for revising budgets without revising the entire SIP:

- (1) The SIP continues to meet applicable requirements when the previous motor vehicle emissions inventories are replaced with MOVES2010a base year and milestone, attainment, or maintenance year inventories, and
- (2) The state can document that growth and control strategy assumptions for non-motor vehicle sources continue to be valid and any minor updates do not change the overall conclusions of

the SIP.

Ohio has documented that growth and control strategy assumptions continue to be valid and do not change the overall conclusions of the maintenance plan. The emission estimates for point, area and non-road sources have not changed. Ohio finds that growth and control strategy assumptions for non-mobile sources (i.e. area, non-road, and point) from the original submittal for the years 2006, 2012, 2020 were developed before the down-turn in the economy over the last several years. Because of this, the factors included in the original submittal may project more growth than actual into the future. As a result, the growth and control strategy assumptions for the non-mobile sources for the years 2006, 2012, and 2020 continue to be valid and do not affect the overall conclusions of the plan.

Ohio's submissions confirm that the SIP continues to demonstrate its purpose of maintaining the 1997 ozone standard because the emissions are continuing to decrease from the attainment year to the final year of the maintenance plan. The total emissions under the revised SIP (which includes MOVES2010a emissions for mobile sources) decrease from the 2006 attainment year to the year 2020 (the last year of the maintenance plan). These totals demonstrate that emissions in the Cleveland-Akron-Lorain and the Columbus, Ohio areas are continuing to decline and remain below the attainment levels. Tables 3 and 4 display total

emissions in both the Cleveland-Akron-Lorain and the Columbus, Ohio areas including point, area, non-road, and mobile sources and demonstrates the declining emissions from the 2006 attainment year.

Table 3-Table of Total Emissions with MOVES2010a Mobile Emissions  
Cleveland-Akron-Lorain  
[Tons per summer day]

Year	2006	2020
VOC	121.59	37.54
NO <sub>x</sub>	274.22	94.23

Table 4-Table of Total Emissions with MOVES2010a Mobile Emissions  
Columbus  
[Tons per summer day]

Year	2006	2020
VOC	260.58	128.59
NO <sub>x</sub>	330.99	127.29

Tables 5 and 6 below display the submitted budgets that are being approved. The budgets include an appropriate margin of safety while still maintaining total emissions below the attainment level.

Table 5-Table of Motor Vehicle Emission Budgets (MOVES) for the  
Cleveland-Akron-Lorain 1997 ozone area  
[Tons per summer day]

Year	2012	2020
VOC	81.54	43.17
NO <sub>x</sub>	189.27	108.36

Table 6-Table of Motor Vehicle Emission Budgets (MOVES) for the Columbus 1997 ozone area  
[Tons per summer day]

Year	2012	2020
VOC	93.99	50.34
NO <sub>x</sub>	188.85	99.12

Based on our review of the SIPs and the new budgets provided, EPA has determined that the SIPs will continue to meet the requirements if the revised motor vehicle emissions inventories are replaced with MOVES2010a inventories.

#### **c. Applicability of MOBILE6.2-based Budgets**

Pursuant to the State's requests, EPA's approval of the revised budgets means that the existing MOBILE6.2-based budgets will no longer be applicable for transportation conformity purposes upon the effective date of this approval.

In addition, upon this EPA approval of the MOVES2010a-based budgets, the regional transportation conformity grace period for using MOBILE6 instead of MOVES2010 (and subsequent minor revisions) for the pollutants included in these budgets ends for the Cleveland-Akron-Lorain and Columbus, Ohio 1997 ozone maintenance area.<sup>2</sup>

#### **V. What Action Is EPA Taking?**

EPA is approving the 2012 and 2020 submitted budgets for the Cleveland-Akron-Lorain and Columbus, Ohio 1997 ozone maintenance

plans. We are publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this Federal Register publication, we are publishing a separate document that will serve as the proposal to approve the state plan if relevant adverse written comments are filed. This rule will be effective [INSERT DATE 60 DAYS FROM THE DATE OF PUBLICATION IN THE FEDERAL REGISTER] without further notice unless we receive relevant adverse written comments by [INSERT DATE 30 DAYS FROM THE DATE OF PUBLICATION IN THE FEDERAL REGISTER]. If we receive such comments, we will withdraw this action before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed action. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. If we do not receive any comments, this action will be effective

---

<sup>2</sup> For more information, see EPA's "Policy Guidance on the Use of MOVES2010 and Subsequent Minor Revisions for State Implementation Plan Development, Transportation Conformity, and Other Purposes" (April 2012).

[INSERT DATE 60 DAYS FROM THE DATE OF PUBLICATION IN THE FEDERAL REGISTER].

#### **VI. Statutory and Executive Order Reviews.**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);

- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of



1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [INSERT DATE 60 DAYS FROM DATE OF PUBLICATION OF THIS DOCUMENT IN THE FEDERAL REGISTER]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's Federal Register, rather than file an

immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements.

(See section 307(b)(2).)

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control,  
Incorporation by reference, Intergovernmental relations, Nitrogen  
dioxide, Ozone, Volatile organic compounds.

Dated: March 4, 2013

Susan Hedman,  
Regional Administrator, Region 5.

40 CFR part 52 is amended as follows:

**PART 52-- [AMENDED]**

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

2. Section 52.1885 is amended by adding paragraph (ff)(13) to read as follows:

**§ 52.1885 Control strategy: Ozone.**

\* \* \* \* \*

(ff) \* \* \*

(13) Approval -- On October 30, 2012, and December 12, 2012, Ohio submitted a request to revise the approved MOBILE6.2 motor vehicle emission budgets (budgets) in the 1997 8-hour ozone maintenance plans for the Cleveland-Akron-Lorain and Columbus, Ohio areas. The budgets are being revised with budgets developed with the MOVES2010a model. The 2012 motor vehicle emissions budgets for the Cleveland-Akron-Lorain, Ohio area are 81.54 tpd VOC and 189.27 tpd NO<sub>x</sub>. The 2020 motor vehicle emissions budgets for the Cleveland-Akron-Lorain, Ohio area are 43.17 tpd VOC and 108.36 tpd NO<sub>x</sub>. The 2012 motor vehicle emissions budgets for the Columbus, Ohio area are 93.99 tpd VOC and 188.85 tpd NO<sub>x</sub>. The 2020 motor vehicle emissions budgets for the Columbus, Ohio area are 50.34 tpd VOC and 99.12 tpd NO<sub>x</sub>.

\* \* \* \* \*

[FR Doc. 2013-06210 Filed 03/18/2013 at 8:45 am; Publication  
Date: 03/19/2013]